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**From:** King, John Paul  
**Sent:** Fri 6/28/2013 5:50:26 PM  
**Subject:** RE: fyi

Utility Water Act Group and Hunton & Williams; two of groups fighting us on Merrimack Station's draft permit.

**From:** Stein, Mark  
**Sent:** Friday, June 28, 2013 8:57 AM  
**To:** Webster, David; Houlihan, Damien; Hoang, Yen; DeMeo, Sharon M.; King, John Paul  
**Subject:** fyi

Daily News

## Fearing Costs, Treatment Options, Power Plants Seek More Time On ELG

Posted: June 27, 2013

The electricity sector is asking EPA for an additional 90 days to craft comments on the agency's proposed effluent limitation guidelines (ELG) for steam-fired power plants, saying that the data behind the potential treatment technologies and economic effects will require considerably more time to review than the 60 days allotted by the agency.

If the industry's request is granted, it would push the deadline for responses to the rule from Aug. 6 until Nov. 4, though EPA has not yet indicated how it plans to respond to the request.

"In order to comment on the steam electric proposal the regulated industry will have to collect and analyze a huge amount of data," James Christman, who represents the power plant group the Utility Water Act Group for the firm Hunton & Williams, said in a [recent letter to the agency](#).

He pointed in particular to the need for time to analyze "EPA's choice of technologies for each waste stream and the supporting data related" to those preferred options; evaluate EPA's power plant data; and assess the potential economic impacts of the rule on a range of power plant sizes "and on the nation as a whole, as well as EPA's calculations of the environmental benefits of the rule."

An agency spokeswoman says "EPA will review the request," although the agency may be limited in how much additional time it can provide the industry because it is subject to a legal settlement that requires a final rule to be promulgated by May 22, 2014.

EPA issued the draft ELG April 19, meeting a deadline laid out in a settlement agreement with environmentalists who have long called for the updating of the 1982 rules to reflect recent technologies that pull contaminants from air emissions and put them in other streams, though the proposal was not published in the *Federal Register* until June 7.

The proposed rule includes four options for updating the ELG that vary based on which waste streams are covered, the size of the units controlled and stringency of treatment, though it also calls for "flexibility in implementation through a phased-in approach and use of technologies already installed at a number of plants," according to an April 19 press release from EPA announcing the proposed rule.

"Under the proposed approach, new requirements for existing power plants would be phased in between 2017 and 2022, and would leverage flexibilities as necessary," according to the release. "Fewer than half of coal-fired power plants are estimated to incur costs under any of the proposed preferred options, because many power plants already have the technology and procedures in place to meet the proposed pollution control standards."

### Pollutant Discharges

The agency estimates that the proposed ELG, if finalized, could reduce annual pollutant discharges from coal-fired power plants by 470 million to 2.62 billion pounds and reduce water use at those utilities by 50 billion to 103 billion gallons per year.

Under the proposal, the weakest level of treatment, laid out in option 1 reflects very little change from the current operation of most power plants, while the subsequent options require progressively more stringent treatments.

For example, while the proposal includes options that keep surface impoundment for the holding and disposal of certain power plant wastes, some options call for novel technologies, including chemical precipitation to pull metals from the waste stream; anoxic/anaerobic biological treatment, which is "designed to optimize removal of selenium" and nitrogen compounds; vapor compression evaporation, which further reduce contaminants such as boron, sodium and bromides; or a combination of those and other treatments.

However, since ELGs are based on best available technologies, EPA does not have to weigh the costs of installing stringent controls against the benefits of effluent reduction when reaching its preferred course of action.

Industry has long been concerned about the costs of the rule, and sought to intervene in the deadline-setting settlement agreement in *Defenders of Wildlife v. Jackson*, to ensure EPA had adequate time to craft a fair rule that would not be overly burdensome on regulated entities. The court denied their request.

Christman argues in the comments that "given the complexity of the issues, the size of the record and the questions that are already raised by the proposal, more time is needed if EPA is to assure a full and fair public comment period."

